

**Minutes of the Joint Meeting of the Veneta Planning Commission
& Veneta City Council
Tuesday - July 5, 2005**

Council
Present: Mayor T. J. Brooker, Darrell Carman, Thomas Cotter., and Marion Esty

Planning
Commission: Chairman Jim Bruvold, James Dean, James Eagle-Eye, Len Goodwin, and Lily Rees

Absent: Fred Miller

Staff: Ric Ingham, City Administrator; Mark Stephens, Veneta Planning Official; Margaret Boutell, Community Services Director; Sheryl Hackett, City Recorder; Lindsey Coffee, Planning Assistant; Brian Issa, Planning Assistant; Jerry Elliott, City Engineer; Kay Larson; Allen Martin; and Scott Morris

I. REVIEW AGENDA

Chairman Jim Bruvold called the Veneta Planning Commission to order at 6:05 p.m and announced the first item on the agenda is a joint meeting with the Veneta City Council.

II. JOINT MEETING: Veneta City Council & Veneta Planning Commission

- A. Call Veneta City Council to Order: Mayor Brooker called the Veneta City Council to order at 6:05 p.m.
- B. Joint Decision: COVEN ESTATES 2 - (V-3-05) Variance to Veneta's Wetland Protection Ordinance (Veneta Municipal Code Chapter 18.10) to allow development within a delineated wetlands. Assessors map 18-05-06-20, tax lot 420 (Continued from June 6, 2005)

Chairman Jim Bruvold announced the public hearing for Coven Estates 2 was closed and the joint decision was continued from June 6, 2005.

Community Services Director Margaret Boutell introduced Mark Stephens, Veneta's new planner. She said *Denise (amended 7-25-05)* ~~Dennis~~ Walters who prepared the staff reports is ill and Mr. Stephens will be presenting her reports.

Lily Rees declared a conflict of interest and stepped down from the Planning Commission.

Staff Report (Mark Stephens)

The variance to Veneta's Wetland Protection Ordinance Chapter 18.10 requires a joint decision by the Veneta City Council and Planning Commission. Notice was duly issued and a public hearing was held on May 11, 2005 and continued on June 6, 2005. The hearing was closed and the decision was postponed until the July 5,

2005 meeting to allow the Council and Planning Commission time to analyze additional information that was submitted. The applicant requested the variance to allow a proposed extension of Cherry Street and utilities for a six lot subdivision to be constructed within a significant wetlands. The applicant had also submitted applications for tentative approval of the six lot subdivision and a conditional use permit to develop within a Greenway subzone. Those applications were denied by the Veneta Planning Commission at their last regularly scheduled meeting.

MOTION: Mayor Brooker made a motion to deny the application for a variance to Veneta's Wetland Protection Ordinance based on findings that the request is not consistent with the Veneta Municipal Code and the fact the related applications were denied by the Veneta Planning Commission. Darrell Carman seconded the motion which passed with a unanimous vote of 8-0. (Lily Rees did not participate)

Following the decision by the Veneta City Council and Planning Commission, Lily Rees rejoined the Planning Commission at 6:10 p.m.

C. Joint Public Hearing: LARSON (V-5-05) Variance to Veneta's Wetland Protection Ordinance (Veneta Municipal Code Chapter 18.10) to allow development within a delineated wetlands. Assessors map 17-06-36-00, tax lot 600

1. Open Hearing: Chairman Jim Bruvold opened the public hearing at 6:10 p.m.

2. Declaration of Conflict of Interest or Ex-Parte Contacts:

No conflicts of interest were declared. James Dean declared an ex-parte contact with Kay Larson. He said Kay Larson had a discussion with him to express her anxiety about the land use process. He said the discussion would not affect his decision. No other ex-parte contacts were declared.

3. Staff Report (Mark Stephens)

The application is part of a combined land use action that includes a Site Plan Review and Conditional Use Permit. The variance request was duly noticed in accordance with the Veneta Land Development Ordinance and referrals were sent to affected agencies. The City received responses from Weber-Elliott Engineers and the Lane County Fire District No. 1. The applicant has agreed to the request by the fire department to add a secondary access on the northeast corner of the site. No written comments were received in time to be incorporated into the staff report. Written comments were received on Friday, July 1, 2005 and on July 5, 2005 which have been provided to the Planning Commission.

The request for a variance to allow development in a locally significant wetlands has been examined by staff for compliance with the Veneta Municipal Code Chapters 18.05 and 18.10. Staff recommends approval of the request with conditions to restrict the area to be developed, to install silt

fencing and erosion control measures during construction, to obtain permits from the Division of State Lands and US Army Corps of Engineers, to purchase wetland mitigation credits, and to submit a landscape plan. One of the key issues involves the use of the West Eugene Mitigation Bank. (Applicant Kay Larson pointed out a typographical error, the report should read "the Amazon Mitigation Bank".)

In response to a question from Commissioner Len Goodwin, staff advised the new written testimony does not include a request to hold the record open.

4. Public Testimony

Kay Larson; 3317 Onyx Place; Eugene, OR

Applicant Kay Larson pointed out the area of existing wetlands on a site map. She stated the site is 3.87 acres in size, 0.88 acres of which are wetlands. She said the property slopes to the north. She said the construction of Hwy 126 caused water to back up into an old orchard that had been planted on the site. Since that time she said the trees have deteriorated. She said the property has become wetter since the construction of 8th Street. Ms. Larson presented photographs taken in 1978 looking south towards the property. She explained that the photos showed the property as a fairly flat pasture land with some drainage ditches and orchard trees. She presented photos taken in 1969 and 1983 during the Applegate Trail Days festival which she said showed the property as flat and dry. She said an arena was located on the property in 1978, before the construction of Hwy 126.

Len Goodwin asked the minutes to reflect that the applicant submitted two additional drawings for the record.

Allen Martin 36562 Shoreview Drive; Dorena OR 97434

Mr. Martin said he is the wetland consultant that prepared information for the record about the project. He noted that some additional public comments regarding the wetlands and its impacts were submitted to the Planning Commission on July 1, 2005. He said the variance being requested is for areas of the same wetlands impacted by Eighth Street and Jack Kelley Drive. He said the Larson property originally included a portion of what is now Eighth Street which impacted 0.36 acres of wetlands and a portion of Jack Kelley Drive which impacted an additional 0.38 acres of wetlands. Mr. Martin said the streets were part of the City's Comprehensive Plan to encourage commercial development along the frontage road (Jack Kelley Drive).

5. Questions from the Veneta City Council and Planning Commission

In response to a question from Len Goodwin, Mr. Martin explained his professional training as a wetland consultant included courses in wetland delineation, advanced soil study, advanced plant study, and mitigation. He

said he has been practicing as a wetland scientist for five years and has been a consultant for twenty years. He said he is a professional geologist.

In response to a question from Len Goodwin about whether he saw any evidence of red legged frogs, Mr. Martin said he examined the property but not as a biologist. In response to another question from Len Goodwin, Mr. Martin said he did not observe any Bradshaw Lomatian or Wayside Aster.

In reference to the comments submitted, Mr. Martin said a biological survey was done by Nancy Holzhauser prior to construction of Jack Kelley Drive and she stated that she found the property was a marginal potential habitat for Bradshaw Lomatian along the north portion of the project along the alignment of Jack Kelley Drive. With respect to Wayside Aster she said the upland portion of the project area was marginal and is covered with mixed conifer with some poison oak, which is not typical habitat for those species of plants, and none of those plants were observed.

Len Goodwin said he wanted to know what may have changed since that assessment. In response, Mr. Martin said he found no additional evidence of those species; however, he was not asked to look for them.

In response to a question from Jim Bruvold, Mr. Martin said the wetlands were originally delineated by Satre & Associates in December 1999 and concurred to in 2000. He was asked by the applicant to evaluate the property, reestablish the wetland boundary, and help prepare the joint removal fill permit application. He said in his opinion and observations the wetlands do not serve as part of the City's stormwater system. He said the wetland appears to be confined by the Railroad and surrounding roads. He said there is some connectivity with the wetlands on the adjacent property west of Eighth Street but the natural source of hydrology to the west has been cut off except for the stormwater piping under the highway.

In response to a question from James Dean, Mr. Martin said it is hard to say from Kay Larson's pictures whether or not the wetlands existed in 1977. He said some wetlands are very seasonal and although they dry up during the summer months they can still meet the three criteria for jurisdictional wetlands which are plants, soils, and hydrology. He said the photos do demonstrate that the area was dry during the summer months but the other conditions are unknown. He said pre-settlement information from the 1850's indicate the area was identified as an Oak Savannah which would be on the margin of coniferous forest which could have been a transitional zone. He said a transitional zone could have some wetlands in it; however, the property was planted with orchard trees such as apples and pears which generally do not grow in a wet area. He said the orchard trees on the property matured and are now showing signs of deterioration and evidence of being stressed.

In response to a question from Jim Bruvold about the creation of the current wetlands, Mr. Martin said a lot of stormwater from Bolton Hill and the

south has been directed onto the property. He said there is a depression near where Eighth Street was constructed.

In response to a question from Len Goodwin, Mr. Martin said he did some sample plots to verify whether or not Mike Shikey's wetland delineation was correct and used the USDA soil map to verify the soils met the characteristics; however, he did not look at all the soils on the property. He said the wetland delineation by Satre includes the soils map. Len Goodwin said it would be helpful to have the map in the record.

James Eagle Eye said it should be noted that even though the water on the property is isolated, it flows through and off the property and eventually into the Long Tom.

In response, Kay Larson said the water flows into a canal that goes into Fern Ridge Reservoir.

Mayor Brooker said the wetlands were significantly impacted by construction of Hwy 126, the West Lane Center, Eighth Street, and Jack Kelley Drive. He said the wetlands have changed considerably and are no longer healthy. He said the wetland runoff no longer goes into the Long Tom but travels another route to the Fern Ridge Reservoir. He said he feels the wetland was created over a period of time by the impact of development around it.

Mr. Martin said he will provide a copy of the soil map for the record.

6. Close of Public Hearing: Chairman Jim Bruvold closed the public hearing at 6:35 p.m.
7. Deliberation and Decision

Mayor Brooker said the City has made a significant investment in the area to encourage commercial development. He said it is not the City's intent to destroy wetlands; however, the City is expected to allow for commercial growth. He said a significant amount of commercial development can happen along Jack Kelley Drive and there is a provision for mitigation of the wetlands.

In response to a question from James Dean, Mayor Brooker said the City obtained wetland permits from the Corp of Engineers and worked with ODOT to construct the roads. He said wetland mitigation was done through a mitigation bank.

In response to a question from James Dean, Margaret Boutell explained that if the Corps of Engineers allows it, the developer can fill in wetlands if they either create additional wetlands or purchase credits in a wetland mitigation bank. If a developer chooses to create wetlands, the Corps of Engineers and Division of State Lands require the wetlands to be monitored for five

years.

In response to a question from James Dean, Margaret said the Amazon Mitigation Bank is in the same watershed as Veneta. She said Kay Larson's permit has been submitted to DSL and the Corp of Engineers and a decision is expected sometime in July. If the decision requires any changes to her applications she may be required to come back before the Planning Commission. She said the federal and state requirements override what the City does.

In response to a question from James Dean, Margaret explained that even if the wetlands were created since the 1970's, they are still considered wetlands. She said she would not make the assumption that there were no wetlands in the 1970's.

Mayor Brooker said there is no way to tell whether or not there were wetlands on the property in the past. He said the only thing they know is the construction around the property has changed the property significantly.

In response to a question, Jerry Elliott said the culverts under the new streets were oversized at the request of the Division of State Lands to allow the opportunity for a transportation corridor for some species. He said they have no verification that the culverts have been used that way but the culverts do allow for a lot of drainage capacity. He said the applicant's engineer will have to submit a drainage design for a ten year storm and retention system. He said with an engineered design the fill will not interfere with drainage. He said there are some edge problems that will need to be addressed during the design stage to determine which direction the water will flow from the edges of the property; however, with property design it will not create a problem for neighboring properties.

In response to a question from Darrell Carman, Margaret Boutell said the City code does not have any provisions to treat wetlands differently based on how they were created. She said delineations are only good for five years. If a development is proposed five years after the state issues their concurrence, a new wetland delineation is required.

Len Goodwin said he feels there is a lot of basis for granting a variance. He said Hwy 126 was constructed at a time when inadequate attention was given to how the water runoff from the highway would impact adjacent properties. He said they have a biological opinion that theoretically there is a possibility that rare species could exist on the property; however, those species have not actually been observed by those who have assessed the property. The construction of Hwy 126, Eighth Street, and Jack Kelley Drive have combined to entrap water on the property that would routinely flow to the north. He said he feels it is a mockery of the wetland process to call the wetlands significant. He said the applicant's proposal will eliminate a pool of stagnant water that attracts vectors rather than rare and endangered species. He said the proposal will enhance a wetland site

through a wetland mitigation bank. He said it is unfortunate that Veneta does not have a bank of it's own. He feels the City has the opportunity to restore the property to a productive economic use and get some wetland value by working with an existing wetland mitigation bank. He said given the needs of the Veneta community for additional retail and commercial space a very strong case can be made that the economic needs almost compel the City to approve a variance of this kind and have the applicant develop wetlands through mitigation.

MOTION: Len Goodwin made a motion for the Veneta City Council and Planning Commission to approve the wetland variance for Larson. James Dean seconded the motion which passed with a unanimous vote of 9-0.

D. Adjourn City Council: Mayor Brooker adjourned the Veneta City Council at 6:50 p.m.

Chairman Jim Bruvold adjourned the Veneta Planning Commission and announced they will reconvene at 7:00 p.m.

Chairman Jim Bruvold called the Veneta Planning Commission back to order at 7:00 p.m.

III. PUBLIC COMMENT: No Public Comment.

IV. APPROVAL OF MINUTES: May 11, 2005 and June 6, 2005

MOTION: James Dean made a motion to approve the minutes for May 11, 2005 and June 6, 2005. Len Goodwin seconded the motion which passed with a vote of 5-0.

V. PUBLIC HEARING & LIMITED LAND USE ACTIONS:

LARSON - Conditional Use Permit to allow development within the Greenway Subzone (CUP-4-05) and Site Plan Review (SR-1-05) for development of a Highway Commercial site.

Assessors' map 17-06-36-00, tax lot 600

1. Open Hearing: Chairman Jim Bruvold opened the public hearing at 7:05 p.m.
2. Declaration of Conflict of Interest or Ex-Parte Contacts: None
3. Staff Report (Mark Stephens): Conditional use permit CUP-4-05 was duly advertised in accordance with Veneta Land Development Ordinance 417. The applicant seeks a conditional use permit in order to allow commercial development in a Greenway Open Space Subzone. Agency response is partially indicated by the 23 conditions that have been attached as conditions of approval. No written comments were received from the public before the packets were mailed; however, written comments received after that time were provided to the Planning Commission earlier in the meeting. Issues include the emergency vehicle access, building orientation, Greenway Open Space Subzone, and Parking requirements.

The applicant has submitted a new drawing that shows a secondary access. Staff's recommendation is for approval with the 23 conditions that are listed in the proposed final order.

4. Public Testimony:

Kay Larson; 3317 Onyx Place; Eugene, OR

Applicant Kay Larson described that the area under discussion is the greenway subzone that measures 100 feet by 400 feet. The reason she purchased the property from the Railroad was to develop it. She said her plan for the property is to create the feeling of a village plaza. She wants people to be able to walk around easily. The parking area has been designed to save trees. They will have four buildings on the property. They plan to plant spruce trees. She said she wants the property to appear wooded and natural. She said she found the inspiration for the design in Bend. The buildings will be designed with a heavy wood look with a timbered façade and some stone facing. She wants an enclosed area with the buildings facing each other. She said she plans for the front building on the north is planned for some sort of a financial institution.

5. Questions from the Planning Commission:

Jim Bruvold inquired about putting in oak trees. Kay replied that they have not done much planning with the landscape architect yet. Jim Bruvold commented that oak trees create a lot of bio-diversity. Kay took note of that and said she will discuss it further with her landscape architect. Kay showed the commission the drawing of the courtyard and said that they are going to try to save some oak and fir trees, but most of the trees on the property are firs and there are not too many oaks. Kay also stated that the spruce trees that are currently on the site do not work well with the buildings they are proposing.

In response to a question by Len Goodwin, staff stated that the purpose of the greenway on this property is to provide a buffer for the railroad.

James Dean inquired if there was a mitigation bank for greenways, like the ones for wetlands. Margaret Boutell described that the greenway zone is to remain largely undeveloped and that there are no mitigation banks for greenways. James Dean asked if this instance fits the term largely. Margaret Boutell said that this instance is a little bit different because the greenway zone is not for wetland protection.

In response to a question from James Eagle Eye, about whether or not the property purchased from the railroad was in the greenway, Kay Larson said the property was in the greenway subzone and the City would charge a fee to remove the subzone.

6. Close of Public Hearing: Chairman Jim Bruvold closed the public hearing for the Conditional Use Permit

7. Deliberation and Decision

MOTION: Len Goodwin made a motion to approve the conditional use permit. Lily Rees seconded the motion which passed with a vote of 5-0.

Mark Stephens reviewed the staff report for the site plan review and recommended approval with the conditions stated in the proposed final order.

Planning Commission members noted that the city's current parking standards do not address shopping malls. Margaret Boutell said staff will take it under advisement for future discussion.

Following a question from Len Goodwin, the Commission, Staff, and Kay Larson discussed lighting standards. Kay said they plan to have outdoor lighting because there will be evening venues with outdoor seating. Jim Bruvold commented on the plans for the historic lighting plans for Broadway and a possible cost share with the development having the same standards. Len Goodwin and Margaret Boutell discussed making a lighting plan a condition of approval.

In response to a question by Jim Bruvold about building height limitations, Mark Stephens said that they do not apply in the highway/commercial zones, the zone is silent on the height standards.

In response to a question from Len Goodwin, Jerry Elliot said the pump station will be a private facility. After another question by Len Goodwin about the possibility of the pump station becoming public eventually, Jerry and Margaret said that in the future, if the owners want to hook up to a gravity system they will have to pay another SDC at that time along with the SDC they have to pay when they start construction. Jerry said the only way the SDC would be waived is if an adjacent property owner installs the line.

MOTION: James Dean made a motion to approve the site plan review, SR-1-05. Lily Rees seconded the motion.

Jerry Elliott asked if they wanted to add a condition about lighting standards.

Scott Morris, Olsen & Morris Engineers; 1410 Oak St, Ste. 200; Eugene, OR Scott, the applicant's engineer, wanted to clarify condition 13. He requested that it only apply to buildings a, b, and d, because building c already faced the correct way. He would like there to be no condition for building c. Len Goodwin suggested amending the motion to address lighting and building orientation.

MOTION: James Dean's motion was amended to include the language for condition 13 to say "for any buildings that are not planned to face Jack Kelly Drive" and to require a lighting plan. Lily Rees seconded the amended motion which passed with a vote of 5-0.


VI. OTHER:

A. Administrative Decisions



Mark Stephens briefly described the two administrative decisions. The first was the approval for a temporary use permit for a fireworks stand, which closed the day of the meeting. The fireworks stand had 10 conditions of approval, half were fire related. The second decision was approval of a minor site plan amendment for the Qwest building.

VII. ADJOURN:

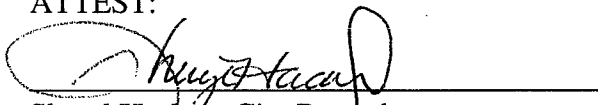
Chairman Jim Bruvold adjourned the Veneta Planning Commission at 7:40 p.m.


T. J. Brooker, Mayor
Veneta City Council (pages 1-7)

ATTEST:


Sheryl Hackett, City Recorder
(pages 1-7 prepared by SLHackett)
James Bruvold, Chairman
Veneta Planning Commission

ATTEST:


Sheryl Hackett, City Recorder
(pages 7-10 prepared by LCoffee)